

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 5

## [Report No. 104-1 Parts I and II]

To curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. CLINGER, Mr. PORTMAN, Mr. CONDIT, and Mr. DAVIS (for themselves, Mr. SHAYS, Mr. MCHUGH, Mr. MICA, Mr. HORN, Mr. ZELIFF, Mr. BURTON of Indiana, Mr. SCHIFF, Mr. BLUTE, Mr. FOX, Mr. WALSH, and Mr. CUNNINGHAM) introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Committees on Rules, the Budget, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JANUARY 13, 1995

Reported from the Committee on Rules with amendments

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JANUARY 13, 1995

Additional sponsors: Mr. CHABOT, Mr. NEY, Mr. HASTERT, Mr. DORNAN, Mr. CREMEANS, Mr. FORBES, Mrs. FOWLER, Mr. HANCOCK, Mr. DICKEY, Mr. LEWIS of Kentucky, Mr. MONTGOMERY, Mr. BONILLA, Mr. HAYES, Mr. PETE GEREN of Texas, Mr. STENHOLM, Mr. STUMP, Mr. PAYNE of Virginia, Mr. PETERSON of Minnesota, Mr. CLEMENT, Mr. SHADEGG, Mr. GOODLING, Ms. PRYCE, Mr. INGLIS of South Carolina, Mr. TATE, Mr. WOLF, Mrs. SMITH of Washington, Mr. HASTINGS of Washington, Mr. SCARBOROUGH, Mr. LINDER, Mr. ROHRABACHER, Mr. BEREUTER, Mr. JONES, Mr. HOUGHTON, Mr. HEINEMAN, Mr. WALKER, Mr. SMITH of Texas, Mr. TAYLOR of North Carolina, Mr. STOCKMAN, Mr. LUCAS, Mr. GILLMOR, Mr. CRANE, Mr. EMERSON, Mr. TALENT, Mr. BAKER of California, Mr. HUNTER, Mr. HANSEN, Mr. ARMEY, Mr. BACHUS, Mr.

BAKER of Louisiana, Mr. BALLENGER, Mr. BARR, Mr. BARTLETT of Maryland, Mr. BASS, Mr. BILBRAY, Mr. BROWNBACK, Mr. BUNNING of Kentucky, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. COLLINS of Georgia, Mr. DOOLITTLE, Ms. DUNN of Washington, Mr. ENSIGN, Mr. FIELDS of Texas, Mr. FLANAGAN, Mr. FRELINGHUYSEN, Mr. FRANKS of New Jersey, Mr. GILCHREST, Mr. GOODLATTE, Mr. GUNDERSON, Mr. GUTKNECHT, Mr. HERGER, Mr. HOBSON, Mr. HOKE, Mr. HOSTETTLER, Mr. SAM JOHNSON of Texas, Mr. KASICH, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. LIVINGSTON, Mr. LAHOOD, Mr. LATOURETTE, Mr. MCINTOSH, Mr. MARTINI, Mr. MANZULLO, Mr. PACKARD, Mr. QUILLEN, Mr. SALMON, Mr. SOLOMON, Mr. SANFORD, Mr. SMITH of Michigan, Mr. SOUDER, Mr. SPENCE, Mr. THORNBERRY, Mr. WAMP, and Mr. WELLER

JANUARY 13, 1995

Reported from the Committee on Government Reform and Oversight with amendments

[Omit the part struck through and insert the part printed in italic]

## A BILL

To curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unfunded Mandate  
5 Reform Act of 1995”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1           (1) to strengthen the partnership between the  
2       Federal Government and States, local governments,  
3       and tribal governments;

4           (2) to end the imposition, in the absence of full  
5       consideration by Congress, of Federal mandates on  
6       States, local governments, and tribal governments in  
7       a manner that may displace other essential State,  
8       local, and tribal governmental priorities;

9           (3) to assist Congress in its consideration of  
10      proposed legislation establishing or revising Federal  
11      programs containing Federal mandates affecting  
12      States, local governments, tribal governments, and  
13      the private sector by—

14           (A) providing for the development of infor-  
15      mation about the nature and size of mandates  
16      in proposed legislation; and

17           (B) establishing a mechanism to bring  
18      such information to the attention of the Senate  
19      and House of Representatives before the Senate  
20      and House of Representatives votes on proposed  
21      legislation;

22           (4) to promote informed and deliberate deci-  
23      sions by Congress on the appropriateness of Federal  
24      mandates in any particular instance;

1           (5) to establish a point-of-order vote on the con-  
2           sideration in the Senate and House of Representa-  
3           tives of legislation containing significant Federal  
4           mandates;

5           (6) to assist Federal agencies in their consider-  
6           ation of proposed regulations affecting States, local  
7           governments, and tribal governments, by—

8                 (A) requiring that Federal agencies de-  
9                 velop a process to enable the elected and other  
10                officials of States, local governments, and tribal  
11                governments to provide input when Federal  
12                agencies are developing regulations; and

13               (B) requiring that Federal agencies pre-  
14               pare and consider better estimates of the budg-  
15               etary impact of regulations containing Federal  
16               mandates upon States, local governments, and  
17               tribal governments before adopting such regula-  
18               tions, and ensuring that small governments are  
19               given special consideration in that process; ~~and~~

20           (7) to establish the general rule that Congress  
21           shall not impose Federal mandates on States, local  
22           governments, and tribal governments without provid-  
23           ing adequate funding to comply with such man-  
24           dates.; *and*

1           (8) to begin consideration of methods to relieve  
2       States, local governments, and tribal governments of  
3       unfunded mandates imposed by Federal court inter-  
4       pretations of Federal statutes and regulations.

5   **SEC. 3. DEFINITIONS.**

6       For purposes of this Act—

7           (1) the terms “agency”, “Federal financial as-  
8       sistance”, “Federal private sector mandate”, “Fed-  
9       eral mandate” (except as provided by section 108),  
10      “local government”, “private sector”, “regulation”  
11      or “rule”, and “State” have the meaning given those  
12      terms by section 421 of the Congressional Budget  
13      Act of 1974; and

14          (2) the term “small government” means any  
15      small governmental jurisdiction as defined in section  
16      601(5) of title 5, United States Code, and any tribal  
17      government.

18   **SEC. 4. LIMITATION ON APPLICATION.**

19      This Act shall not apply to any provision in a Federal  
20      statute or a proposed or final Federal regulation, that—

21          (1) enforces constitutional rights of individuals;

22          (2) establishes or enforces any statutory rights  
23      that prohibit discrimination on the basis of race, re-  
24      ligion, gender, national origin, or handicapped or  
25      disability status;

1           (3) requires compliance with accounting and  
 2           auditing procedures with respect to grants or other  
 3           money or property provided by the Federal Govern-  
 4           ment;

5           (4) provides for emergency assistance or relief  
 6           at the request of any State, local government, or  
 7           tribal government or any official of such a govern-  
 8           ment;

9           (5) is necessary for the national security or the  
 10          ratification or implementation of international treaty  
 11          obligations; ~~or~~

12          (6) the President designates as emergency legis-  
 13          lation and that the Congress so designates in stat-  
 14          ute.; *or*

15          (7) *pertains to Social Security.*

## 16   **TITLE I—REVIEW OF UNFUNDED** 17   **FEDERAL MANDATES**

### 18   **SEC. 101. ESTABLISHMENT.**

19          There is established a commission which shall be  
 20          known as the “Commission on Unfunded Federal Man-  
 21          dates” (in this title referred to as the “Commission”).

### 22   **SEC. 102. REPORT ON UNFUNDED FEDERAL MANDATES BY** 23   **THE COMMISSION.**

24          (a) IN GENERAL.—The Commission shall in accord-  
 25          ance with this section—

1           (1) investigate and review the role of unfunded  
2       Federal mandates in intergovernmental relations and  
3       their impact on State, local, tribal, and Federal gov-  
4       ernment objectives and responsibilities; and

5           (2) make recommendations to the President  
6       and the Congress regarding—

7           (A) allowing flexibility for State, local, and  
8       tribal governments in complying with specific  
9       unfunded Federal mandates for which terms of  
10      compliance are unnecessarily rigid or complex;

11          (B) reconciling any 2 or more unfunded  
12      Federal mandates which impose contradictory  
13      or inconsistent requirements;

14          (C) terminating unfunded Federal man-  
15      dates which are duplicative, obsolete, or lacking  
16      in practical utility;

17          (D) suspending, on a temporary basis, un-  
18      funded Federal mandates which are not vital to  
19      public health and safety and which compound  
20      the fiscal difficulties of State, local, and tribal  
21      governments, including recommendations for  
22      triggering such suspension;

23          (E) consolidating or simplifying unfunded  
24      Federal mandates, or the planning or reporting  
25      requirements of such mandates, in order to re-

1       duce duplication and facilitate compliance by  
2       State, local, and tribal governments with those  
3       mandates; and

4               (F) establishing common Federal defini-  
5       tions or standards to be used by State, local,  
6       and tribal governments in complying with un-  
7       funded Federal mandates that use different  
8       definitions or standards for the same terms or  
9       principles.

10       (3) IDENTIFICATION OF RELEVANT UNFUNDED  
11       FEDERAL MANDATES.—Each recommendation under  
12       paragraph (2) shall, to the extent practicable, iden-  
13       tify the specific unfunded Federal mandates to  
14       which the recommendation applies.

15       (b) CRITERIA.—

16               (1) IN GENERAL.—The Commission shall estab-  
17       lish criteria for making recommendations under sub-  
18       section (a).

19               (2) ISSUANCE OF PROPOSED CRITERIA.—The  
20       Commission shall issue proposed criteria under this  
21       subsection not later than 60 days after the date of  
22       the enactment of this Act, and thereafter provide a  
23       period of 30 days for submission by the public of  
24       comments on the proposed criteria.



1           (3) FINAL CRITERIA.—Not later than 45 days  
2       after the date of issuance of proposed criteria, the  
3       Commission shall—

4           (A) consider comments on the proposed  
5       criteria received under paragraph (2);

6           (B) adopt and incorporate in final criteria  
7       any recommendations submitted in those com-  
8       ments that the Commission determines will aid  
9       the Commission in carrying out its duties under  
10      this section; and

11          (C) issue final criteria under this sub-  
12      section.

13      (c) PRELIMINARY REPORT.—

14          (1) IN GENERAL.—Not later than 9 months  
15      after the date of the enactment of this Act, the  
16      Commission shall—

17          (A) prepare and publish a preliminary re-  
18      port on its activities under this title, including  
19      preliminary recommendations pursuant to sub-  
20      section (a);

21          (B) publish in the Federal Register a no-  
22      tice of availability of the preliminary report;  
23      and

24          (C) provide copies of the preliminary re-  
25      port to the public upon request.

1           (2) PUBLIC HEARINGS.—The Commission shall  
2       hold public hearings on the preliminary rec-  
3       ommendations contained in the preliminary report of  
4       the Commission under this subsection.

5       (d) FINAL REPORT.—Not later than 3 months after  
6       the date of the publication of the preliminary report under  
7       subsection (c), the Commission shall submit to the Con-  
8       gress, including the Committee on Government Reform  
9       and Oversight of the House of Representatives and the  
10      Committee on Governmental Affairs of the Senate, and  
11      to the President a final report on the findings, conclusions,  
12      and recommendations of the Commission under this sec-  
13      tion.

14   **SEC. 103. MEMBERSHIP.**

15       (a) NUMBER AND APPOINTMENT.—The Commission  
16      shall be composed of 9 members appointed from individ-  
17      uals who possess extensive leadership experience in and  
18      knowledge of State, local, and tribal governments and  
19      intergovernmental relations, including State and local  
20      elected officials, as follows:

21           (1) 3 members appointed by the Speaker of the  
22      House of Representatives, in consultation with the  
23      minority leader of the House of Representatives.

1           (2) 3 members appointed by the majority leader  
2           of the Senate, in consultation with the minority lead-  
3           er of the Senate.

4           (3) 3 members appointed by the President.

5           (b) WAIVER OF LIMITATION ON EXECUTIVE SCHED-  
6           ULE POSITIONS.—Appointments may be made under this  
7           section without regard to section 5311(b) of title 5, United  
8           States Code.

9           (c) TERMS.—

10           (1) IN GENERAL.—Each member of the Com-  
11           mission shall be appointed for the life of the Com-  
12           mission.

13           (2) VACANCIES.—A vacancy in the Commission  
14           shall be filled in the manner in which the original  
15           appointment was made.

16           (d) BASIC PAY.—

17           (1) RATES OF PAY.—Members of the Commis-  
18           sion shall serve without pay.

19           (2) PROHIBITION OF COMPENSATION OF FED-  
20           ERAL EMPLOYEES.—Members of the Commission  
21           who are full-time officers or employees of the United  
22           States may not receive additional pay, allowances, or  
23           benefits by reason of their service on the Commis-  
24           sion.

1 (e) TRAVEL EXPENSES.—Each member of the Com-  
2 mission ~~shall~~ *may* receive travel expenses, including per  
3 diem in lieu of subsistence, in accordance with sections  
4 5702 and 5703 of title 5, United States Code.

5 (f) CHAIRPERSON.—The President shall designate a  
6 member of the Commission as Chairperson at the time of  
7 the appointment of that member.

8 (g) MEETINGS.—

9 (1) IN GENERAL.—Subject to paragraph (2),  
10 the Commission shall meet at the call of the Chair-  
11 person or a majority of its members.

12 (2) FIRST MEETING.—The Commission shall  
13 convene its first meeting by not later than 45 days  
14 after the date of the completion of appointment of  
15 the members of the Commission.

16 (3) QUORUM.—A majority of members of the  
17 Commission shall constitute a quorum but a lesser  
18 number may hold hearings.

19 **SEC. 104. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**  
20 **AND CONSULTANTS.**

21 (a) DIRECTOR.—The Commission shall have a Direc-  
22 tor who shall be appointed by the Commission. The Direc-  
23 tor shall be paid at *a level not to exceed* the rate of basic  
24 pay payable for level IV of the Executive Schedule.

1       (b) STAFF.—With the approval of the Commission,  
2 and without regard to section 5311(b) of title 5, United  
3 States Code, the Director may appoint and fix the pay  
4 of such staff as is sufficient to enable the Commission to  
5 carry out its duties.

6       (c) APPLICABILITY OF CERTAIN CIVIL SERVICE  
7 LAWS.—The Director and staff of the Commission may  
8 be appointed without regard to the provisions of title 5,  
9 United States Code, governing appointments in the com-  
10 petitive service, and may be paid without regard to the  
11 provisions of chapter 51 and subchapter III of chapter 53  
12 of that title relating to classification and General Schedule  
13 pay rates, except that an individual so appointed may not  
14 receive pay in excess of the annual rate payable under  
15 section 5376 of title 5, United States Code.

16       (d) EXPERTS AND CONSULTANTS.—The Commission  
17 may procure temporary and intermittent services of ex-  
18 perts or consultants under section 3109(b) of title 5,  
19 United States Code.

20       (e) STAFF OF FEDERAL AGENCIES.—Upon request  
21 of the Director, the head of any Federal department or  
22 agency may detail, on a reimbursable basis, any of the  
23 personnel of that department or agency to the Commission  
24 to assist it in carrying out its duties under this title.

1 **SEC. 105. POWERS OF COMMISSION.**

2 (a) HEARINGS AND SESSIONS.—The Commission  
3 may, for the purpose of carrying out this title, hold hear-  
4 ings, sit and act at times and places, take testimony, and  
5 receive evidence as the Commission considers appropriate.

6 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-  
7 ber or agent of the Commission may, if authorized by the  
8 Commission, take any action which the Commission is  
9 authorized to take by this section.

10 (c) OBTAINING OFFICIAL DATA.—The Commission  
11 may secure directly from any department or agency of the  
12 United States information necessary to enable it to carry  
13 out this title, except information—

14 (1) which is specifically exempted from disclo-  
15 sure by law; or

16 (2) which that department or agency deter-  
17 mines will disclose—

18 (A) matters necessary to be kept secret in  
19 the interests of national defense or the con-  
20 fidential conduct of the foreign relations of the  
21 United States;

22 (B) information relating to trade secrets or  
23 financial or commercial information pertaining  
24 specifically to a given person if the information  
25 has been obtained by the Government on a con-  
26 fidential basis, other than through an applica-

1           tion by such person for a specific financial or  
2           other benefit, and is required to be kept secret  
3           in order to prevent undue injury to the competi-  
4           tive position of such person; or

5           (C) personnel or medical data or similar  
6           data the disclosure of which would constitute a  
7           clearly unwarranted invasion of personal pri-  
8           vacy;

9           unless the portions containing such matters, infor-  
10          mation, or data have been excised.

11       Upon request of the Chairperson of the Commission, the  
12       head of that department or agency shall furnish that infor-  
13       mation to the Commission.

14       (d) **MAILS.**—The Commission may use the United  
15       States mails in the same manner and under the same con-  
16       ditions as other departments and agencies of the United  
17       States.

18       (e) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon  
19       the request of the Commission, the Administrator of Gen-  
20       eral Services shall provide to the Commission, on a reim-  
21       bursable basis, the administrative support services nec-  
22       essary for the Commission to carry out its duties under  
23       this title.

24       (f) **CONTRACT AUTHORITY.**—The Commission may,  
25       subject to appropriations, contract with and compensate

1 government and private agencies or persons for property  
2 and services used to carry out its duties under this title.

3 **SEC. 106. TERMINATION.**

4 The Commission shall terminate 90 days after sub-  
5 mitting its final report pursuant to section 102(d).

6 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated to the Com-  
8 mission \$1,000,000 to carry out this title.

9 **SEC. 108. DEFINITION.**

10 As used in this title, the term “Federal mandate”  
11 means any provision in statute or regulation *or any Fed-*  
12 *eral court ruling* that imposes an enforceable duty upon  
13 States, local governments, or tribal governments including  
14 a condition of Federal assistance or a duty arising from  
15 participation in a voluntary Federal program.

16 **SEC. 109. EFFECTIVE DATE.**

17 This title shall take effect 60 days after the date of  
18 the enactment of this Act.

19 **TITLE II—REGULATORY**  
20 **ACCOUNTABILITY AND REFORM**

21 **SEC. 201. REGULATORY PROCESS.**

22 (a) IN GENERAL.—Each agency shall, to the extent  
23 permitted by subchapter II of chapter 5 of title 5, United  
24 States Code—



1           (1) assess the effects of Federal regulations on  
2       States, local governments, tribal governments, and  
3       the private sector (other than to the extent that such  
4       regulations incorporate requirements specifically set  
5       forth in legislation), including specifically the avail-  
6       ability of resources to carry out any Federal man-  
7       dates in those regulations; and

8           (2) seek to minimize those burdens that unique-  
9       ly or significantly affect such governmental entities  
10      or the private sector, consistent with achieving statu-  
11      tory and regulatory objectives.

12      (b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOV-  
13      ERNMENT INPUT.—Each agency shall develop an effective  
14      process to permit elected officials (or their designated rep-  
15      resentatives) of States, local governments, and tribal gov-  
16      ernments to provide meaningful and timely input in the  
17      development of regulatory proposals containing significant  
18      Federal intergovernmental mandates.

19      (c) AGENCY PLAN.—

20           (1) IN GENERAL.—Before establishing any reg-  
21      ulatory requirements that might significantly or  
22      uniquely affect small governments, an agency shall  
23      have developed a plan under which the agency  
24      shall—

1 (A) provide notice of the contemplated re-  
2 quirements to potentially affected small govern-  
3 ments, if any;

4 (B) enable officials of affected small gov-  
5 ernments to provide input pursuant to sub-  
6 section (b); and

7 (C) inform, educate, and advise small gov-  
8 ernments on compliance with the requirements.

9 (2) EFFECTS ON PRIVATE SECTOR.—Before es-  
10 tablishing any regulatory requirements, agencies  
11 shall prepare estimates, based on available data, of  
12 the effect of Federal private sector mandates on the  
13 national economy, including the effect on productiv-  
14 ity, economic growth, full employment, creation of  
15 productive jobs, and international competitiveness of  
16 United States goods and services.

17 **SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REG-**  
18 **ULATORY ACTIONS.**

19 (a) IN GENERAL.—Before promulgating any final  
20 rule that includes any Federal mandate that may result  
21 in the expenditure by States, local governments, or tribal  
22 governments, in the aggregate, or the private sector of at  
23 least \$100,000,000 (adjusted annually for inflation) in  
24 any 1 year, and before promulgating any general notice  
25 of proposed rulemaking that is likely to result in promul-

1 gation of any such rule, the agency shall prepare a written  
2 statement containing—

3 (1) estimates by the agency, including the un-  
4 derlying analysis, of the anticipated costs to States,  
5 local governments, tribal governments, and the pri-  
6 vate sector of complying with the Federal mandates,  
7 and of the extent to which such costs may be paid  
8 with funds provided by the Federal Government or  
9 otherwise paid through Federal financial assistance;

10 (2) estimates by the agency, if and to the ex-  
11 tent that the agency determines that accurate esti-  
12 mates are reasonably feasible, of—

13 (A) the future costs of the Federal man-  
14 date; and

15 (B) any disproportionate budgetary effects  
16 of the Federal mandates upon any particular  
17 regions of the country or particular States, local  
18 governments, tribal governments, urban or  
19 rural or other types of communities, or particu-  
20 lar segments of the private sector;

21 (3) a qualitative, and if possible, a quantitative  
22 assessment of costs and benefits anticipated from  
23 the Federal mandates (such as the enhancement of  
24 health and safety and the protection of the natural  
25 environment);

1           (4) the effect of Federal private sector man-  
2           dates on the national economy, including the effect  
3           on productivity, economic growth, full employment,  
4           creation of productive jobs, and international com-  
5           petitiveness of United States goods and services;

6           (5) a description of the extent of the agency's  
7           prior consultation with elected representatives (or  
8           their designated representatives) of the affected  
9           States, local governments, and tribal governments,  
10          and designated representatives of the private sector;

11          (6) a summary of the comments and concerns  
12          that were presented by States, local governments, or  
13          tribal governments and the private sector either oral-  
14          ly or in writing to the agency;

15          (7) a summary of the agency's evaluation of  
16          those comments and concerns; and

17          (8) the agency's position supporting the need to  
18          issue the regulation containing the Federal man-  
19          dates (considering, among other things, the extent to  
20          which costs may or may not be paid with funds pro-  
21          vided by the Federal Government).

22          (b) PROMULGATION.—In promulgating a general no-  
23          tice of proposed rulemaking or a final rule for which a  
24          statement under subsection (a) is required, the agency

1 shall include in the promulgation a summary of the infor-  
2 mation contained in the statement.

3 (c) PREPARATION IN CONJUNCTION WITH OTHER  
4 STATEMENT.—Any agency may prepare any statement re-  
5 quired by subsection (a) in conjunction with or as part  
6 of any other statement or analysis, if the statement or  
7 analysis satisfies the provisions of subsection (a).

8 **SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET**  
9 **OFFICE.**

10 The Director of the Office of Management and Budg-  
11 et shall—

12 (1) collect from agencies the statements pre-  
13 pared under section 202; and

14 (2) periodically forward copies of them to the  
15 Director of the Congressional Budget Office on a  
16 reasonably timely basis after promulgation of the  
17 general notice of proposed rulemaking or of the final  
18 rule for which the statement was prepared.

19 **SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXI-**  
20 **BILITY.**

21 (a) IN GENERAL.—The Director of the Office of  
22 Management and Budget, in consultation with Federal  
23 agencies, shall establish pilot programs in at least 2 agen-  
24 cies to test innovative and more flexible regulatory ap-  
25 proaches that—

1 (1) reduce reporting and compliance burdens on  
2 small governments; and

3 (2) meet overall statutory goals and objectives.

4 (b) PROGRAM FOCUS.—The pilot programs shall  
5 focus on rules in effect or proposed rules, or on a combina-  
6 tion thereof.

7 **SEC. 205. ANNUAL REPORT TO CONGRESS REGARDING FED-**  
8 **ERAL COURT RULINGS.**

9 *Not later than 4 months after the date of enactment*  
10 *of this Act, and no later than March 15 of each year there-*  
11 *after, the Advisory Commission on Intergovernmental Rela-*  
12 *tions shall submit to the Congress, including each of the*  
13 *Committee on Government Reform and Oversight of the*  
14 *House of Representatives and the Committee on Govern-*  
15 *mental Affairs of the Senate, and to the President a report*  
16 *describing Federal court rulings in the preceding calendar*  
17 *year which imposed an enforceable duty on 1 or more*  
18 *States, local governments, or tribal governments.*

19 **TITLE III—LEGISLATIVE**  
20 **ACCOUNTABILITY AND REFORM**

21 **SEC. 301. LEGISLATIVE MANDATE ACCOUNTABILITY AND**  
22 **REFORM.**

23 Title IV of the Congressional Budget Act of 1974 is  
24 amended by—

25 (1) inserting before section 401 the following:

1 “PART A—GENERAL PROVISIONS”; and

2 (2) adding at the end the following new part:

3 “PART B—FEDERAL MANDATES

4 **“SEC. 421. DEFINITIONS.**

5 “For purposes of this part:

6 “(1) AGENCY.—The term ‘agency’ has the  
7 meaning stated in section 551(1) of title 5, United  
8 States Code, but does not include independent regu-  
9 latory agencies, as defined by section 3502(10) of  
10 title 44, United States Code.

11 “(2) DIRECTOR.—The term ‘Director’ means  
12 the Director of the Congressional Budget Office.

13 “(3) FEDERAL FINANCIAL ASSISTANCE.—The  
14 term ‘Federal financial assistance’ means the  
15 amount of budget authority for any Federal grant  
16 assistance or any Federal program providing loan  
17 guarantees or direct loans.

18 “(4) FEDERAL INTERGOVERNMENTAL MAN-  
19 DATE.—The term ‘Federal intergovernmental man-  
20 date’ means—

21 “(A) any provision in legislation, statute,  
22 or regulation that—

23 “(i) would impose an enforceable duty  
24 upon States, local governments, or tribal  
25 governments, except—

1 “(I) a condition of Federal as-  
2 sistance; or

3 “(II) a duty arising from partici-  
4 pation in a voluntary Federal pro-  
5 gram, except as provided in subpara-  
6 graph (B); or

7 “(ii) would reduce or eliminate the  
8 amount of authorization of appropriations  
9 for Federal financial assistance that would  
10 be provided to States, local governments,  
11 or tribal governments for the purpose of  
12 complying with any such previously im-  
13 posed duty unless such duty is reduced or  
14 eliminated by a corresponding amount; or

15 “(B) any provision in legislation, statute,  
16 or regulation that relates to a then-existing  
17 Federal program under which \$500,000,000 or  
18 more is provided annually to States, local gov-  
19 ernments, and tribal governments under entitle-  
20 ment authority, if—

21 “(i)(I) the provision would increase  
22 the stringency of conditions of assistance  
23 to States, local governments, or tribal gov-  
24 ernments under the program; or



1 “(II) would place caps upon, or other-  
2 wise decrease, the Federal Government’s  
3 responsibility to provide funding to States,  
4 local governments, or tribal governments  
5 under the program; and

6 “(ii) the States, local governments, or  
7 tribal governments that participate in the  
8 Federal program lack authority under that  
9 program to amend their financial or pro-  
10 grammatic responsibilities to continue pro-  
11 viding required services that are affected  
12 by the legislation, statute, or regulation.

13 “(5) FEDERAL PRIVATE SECTOR MANDATE.—  
14 The term ‘Federal private sector mandate’ means  
15 any provision in legislation, statute, or regulation  
16 that—

17 “(A) would impose an enforceable duty on  
18 the private sector except—

19 “(i) a condition of Federal assistance;  
20 or

21 “(ii) a duty arising from participation  
22 in a voluntary Federal program; or

23 “(B) would reduce or eliminate the amount  
24 of authorization of appropriations for Federal  
25 financial assistance that will be provided to the

1 private sector for the purpose of ensuring com-  
2 pliance with such duty.

3 “(6) FEDERAL MANDATE.—The term ‘Federal  
4 mandate’ means a Federal intergovernmental man-  
5 date or a Federal private sector mandate, as defined  
6 in paragraphs (4) and (5).

7 “(7) FEDERAL MANDATE DIRECT COSTS.—

8 “(A) FEDERAL INTERGOVERNMENTAL DI-  
9 RECT COSTS.—In the case of a Federal inter-  
10 governmental mandate, the term ‘direct costs’  
11 means the aggregate estimated amounts that all  
12 States, local governments, and tribal govern-  
13 ments would be required to spend or would be  
14 required to forego in revenues in order to com-  
15 ply with the Federal intergovernmental man-  
16 date, or, in the case of a provision referred to  
17 in paragraph (4)(A)(ii), the amount of Federal  
18 financial assistance eliminated or reduced.

19 “(B) PRIVATE SECTOR DIRECT COSTS.—In  
20 the case of a Federal private sector mandate,  
21 the term ‘direct costs’ means the aggregate esti-  
22 mated amounts that the private sector would be  
23 required to spend in order to comply with a  
24 Federal private sector mandate.

1 “(C) EXCLUSION FROM DIRECT COSTS.—

2 The term ‘direct costs’ does not include—

3 “(i) estimated amounts that the  
4 States, local governments, and tribal gov-  
5 ernments (in the case of a Federal inter-  
6 governmental mandate), or the private sec-  
7 tor (in the case of a Federal private sector  
8 mandate), would spend—

9 “(I) to comply with or carry out  
10 all applicable Federal, State, local,  
11 and tribal laws and regulations in ef-  
12 fect at the time of the adoption of a  
13 Federal mandate for the same activity  
14 as is affected by that Federal man-  
15 date; or

16 “(II) to comply with or carry out  
17 State, local governmental, and tribal  
18 governmental programs, or private-  
19 sector business or other activities in  
20 effect at the time of the adoption of a  
21 Federal mandate for the same activity  
22 as is affected by that mandate; or

23 “(ii) expenditures to the extent that  
24 they will be offset by any direct savings to  
25 be enjoyed by the States, local govern-

ments, and tribal governments, or by the private sector, as a result of—

“(I) their compliance with the Federal mandate; or

“(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

“(D) DETERMINATION OF COSTS.—Direct costs shall be determined based on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

“(8) LOCAL GOVERNMENT.—The term ‘local government’ has the same meaning as in section 6501(6) of title 31, United States Code.

1           “(9) PRIVATE SECTOR.—The term ‘private sec-  
2           tor’ means individuals, partnerships, associations,  
3           corporations, business trusts, or legal representa-  
4           tives, organized groups of individuals, and edu-  
5           cational and other nonprofit institutions.

6           “(10) REGULATION.—The term ‘regulation’ or  
7           ‘rule’ has the meaning of ‘rule’ as defined in section  
8           601(2) of title 5, United States Code.

9           “(11) STATE.—The term ‘State’ has the same  
10          meaning as in section 6501(9) of title 31, United  
11          States Code.

12   **“SEC. 422. LIMITATION ON APPLICATION.**

13          “‘This part shall not apply to any provision in a bill,  
14          joint resolution, motion, amendment, or conference report  
15          before Congress that—

16               “(1) enforces constitutional rights of individ-  
17               uals;

18               “(2) establishes or enforces any statutory rights  
19               that prohibit discrimination on the basis of race, re-  
20               ligion, gender, national origin, or handicapped or  
21               disability status;

22               “(3) requires compliance with accounting and  
23               auditing procedures with respect to grants or other  
24               money or property provided by the Federal Govern-  
25               ment;

1           “(4) provides for emergency assistance or relief  
 2           at the request of any State, local government, or  
 3           tribal government or any official of such a govern-  
 4           ment;

5           “(5) is necessary for the national security or  
 6           the ratification or implementation of international  
 7           treaty obligations; or

8           “(6) the President designates as emergency leg-  
 9           islation and that the Congress so designates in stat-  
 10          ute; or

11          “(7) *pertains to Social Security.*

12   **“SEC. 423. DUTIES OF CONGRESSIONAL COMMITTEES.**

13          “(a) SUBMISSION OF BILLS TO THE DIRECTOR.—  
 14          When a committee of authorization of the House of Rep-  
 15          resentatives or the Senate orders a bill or joint resolution  
 16          of a public character reported, the committee shall  
 17          promptly provide the text of the bill or joint resolution  
 18          to the Director and shall identify to the Director any Fed-  
 19          eral mandate contained in the bill or resolution.

20          “(b) COMMITTEE REPORT.—

21                 “(1) INFORMATION REGARDING FEDERAL MAN-  
 22          DATES.—When a committee of authorization of the  
 23          House of Representatives or the Senate reports a  
 24          bill or joint resolution of a public character that in-  
 25          cludes any Federal mandate, the report of the com-

1       mittee accompanying the bill or joint resolution shall  
2       contain the information required by paragraph (2)  
3       and, in the case of a Federal intergovernmental  
4       mandate, paragraph (3).

5               “(2) REPORTS ON FEDERAL MANDATES.—Each  
6       report referred to in paragraph (1) shall contain—

7                       “(A) an identification and description of  
8                       each Federal mandate in the bill or joint resolu-  
9                       tion, including the statement, if available, from  
10                      the Director pursuant to section 424(a);

11                     “(B) a qualitative assessment, and if prac-  
12                     ticable, a quantitative assessment of costs and  
13                     benefits anticipated from the Federal mandate  
14                     (including the effects on health and safety and  
15                     protection of the natural environment); and

16                     “(C) a statement of the degree to which  
17                     the Federal mandate affects each of the public  
18                     and private sectors and the extent to which  
19                     Federal payment of public sector costs would  
20                     affect the competitive balance between States,  
21                     local governments, or tribal governments and  
22                     ~~privately owned businesses.~~ *the private sector.*

23               “(3) INTERGOVERNMENTAL MANDATES.—If any  
24       of the Federal mandates in the bill or joint resolu-  
25       tion are Federal intergovernmental mandates, the

1 report referred to in paragraph (1) shall also con-  
2 tain—

3 “(A)(i) a statement of the amount, if any,  
4 of increase or decrease in authorization of ap-  
5 propriations under existing Federal financial  
6 assistance programs or for new Federal finan-  
7 cial assistance, provided by the bill or joint res-  
8 olution and usable for activities of States, local  
9 governments, or tribal governments subject to  
10 Federal intergovernmental mandates; and

11 “(ii) a statement of whether the committee  
12 intends that the Federal intergovernmental  
13 mandates be partly or entirely unfunded, and,  
14 if so, the reasons for that intention; and

15 “(B) a statement of any existing sources of  
16 Federal financial assistance in addition to those  
17 identified in subparagraph (A) that may assist  
18 States, local governments, and tribal govern-  
19 ments in paying the direct costs of the Federal  
20 intergovernmental mandates.

21 “(4) INFORMATION REGARDING PREEMPTION.—  
22 When a committee of authorization of the House of  
23 Representatives or the Senate reports a bill or joint  
24 resolution of a public character, the committee re-  
25 port accompanying the bill or joint resolution shall



1 contain, if relevant to the bill or joint resolution, an  
2 explicit statement on whether the bill or joint resolu-  
3 tion, in whole or in part, is intended to preempt any  
4 State, local, or tribal law, and if so, an explanation  
5 of the reasons for such intention.

6 “(c) PUBLICATION OF STATEMENT FROM THE DI-  
7 RECTOR.—

8 “(1) IN GENERAL.—Upon receiving a statement  
9 (including any supplemental statement) from the Di-  
10 rector pursuant to section 424(a), a committee of  
11 the House of Representatives or the Senate shall  
12 publish the statement in the committee report ac-  
13 companying the bill or joint resolution to which the  
14 statement relates if the statement is available to be  
15 included in the printed report.

16 “(2) OTHER PUBLICATION OF STATEMENT OF  
17 DIRECTOR.—If the statement is not published in the  
18 report, or if the bill or joint resolution to which the  
19 statement relates is expected to be considered by the  
20 House of Representatives or the Senate before the  
21 report is published, the committee shall cause the  
22 statement, or a summary thereof, to be published in  
23 the Congressional Record in advance of floor consid-  
24 eration of the bill or joint resolution.

1 **“SEC. 424. DUTIES OF THE DIRECTOR.**

2 “(a) STATEMENTS ON BILLS AND JOINT RESOLU-  
3 TIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT  
4 RESOLUTIONS.—

5 “(1) FEDERAL INTERGOVERNMENTAL MAN-  
6 DATES IN REPORTED BILLS AND RESOLUTIONS.—  
7 For each bill or joint resolution of a public character  
8 reported by any committee of authorization of the  
9 House of Representatives or the Senate, the Director  
10 shall prepare and submit to the committee a state-  
11 ment as follows:

12 “(A) If the Director estimates that the di-  
13 rect cost of all Federal intergovernmental man-  
14 dates in the bill or joint resolution will equal or  
15 exceed \$50,000,000 (adjusted annually for in-  
16 flation) in the fiscal year in which such a Fed-  
17 eral intergovernmental mandate (or in any nec-  
18 essary implementing regulation) would first be  
19 effective or in any of the 4 fiscal years following  
20 such year, the Director shall so state, specify  
21 the estimate, and briefly explain the basis of  
22 the estimate.

23 “(B) The estimate required by subpara-  
24 graph (A) shall include estimates (and brief ex-  
25 planations of the basis of the estimates) of—

1 “(i) the total amount of direct cost of  
2 complying with the Federal intergovern-  
3 mental mandates in the bill or joint resolu-  
4 tion; and

5 “(ii) the amount, if any, of increase in  
6 authorization of appropriations or budget  
7 authority or entitlement authority under  
8 existing Federal financial assistance pro-  
9 grams, or of authorization of appropria-  
10 tions for new Federal financial assistance,  
11 provided by the bill or joint resolution and  
12 usable by States, local governments, or  
13 tribal governments for activities subject to  
14 the Federal intergovernmental mandates.

15 “(2) FEDERAL PRIVATE SECTOR MANDATES IN  
16 REPORTED BILLS AND JOINT RESOLUTIONS.—For  
17 each bill or joint resolution of a public character re-  
18 ported by any committee of authorization of the  
19 House of Representatives or the Senate, the Director  
20 shall prepare and submit to the committee a state-  
21 ment as follows:

22 “(A) If the Director estimates that the di-  
23 rect cost of all Federal private sector mandates  
24 in the bill or joint resolution will equal or ex-  
25 ceed \$100,000,000 (adjusted annually for infla-

1           tion) in the fiscal year in which any Federal  
2           private sector mandate in the bill or joint reso-  
3           lution (or in any necessary implementing regu-  
4           lation) would first be effective or in any of the  
5           4 fiscal years following such fiscal year, the Di-  
6           rector shall so state, specify the estimate, and  
7           briefly explain the basis of the estimate.

8           “(B) The estimate required by subpara-  
9           graph (A) shall include estimates (and brief ex-  
10          planations of the basis of the estimates) of—

11           “(i) the total amount of direct costs of  
12           complying with the Federal private sector  
13           mandates in the bill or joint resolution;  
14           and

15           “(ii) the amount, if any, of increase in  
16           authorization of appropriations under ex-  
17           isting Federal financial assistance pro-  
18           grams, or of authorization of appropria-  
19           tions for new Federal financial assistance,  
20           provided by the bill or joint resolution usa-  
21           ble by the private sector for the activities  
22           subject to the Federal private sector man-  
23           dates.

24           “(C) If the Director determines that it is  
25          not feasible to make a reasonable estimate that

1           would be required under subparagraphs (A) and  
2           (B), the Director shall not make the estimate,  
3           but shall report in the statement that the rea-  
4           sonable estimate cannot be made and shall in-  
5           clude the reasons for that determination in the  
6           statement.

7           “(3) LEGISLATION FALLING BELOW THE DI-  
8           RECT COSTS THRESHOLDS.—If the Director esti-  
9           mates that the direct costs of a Federal mandate  
10          will not equal or exceed the threshold specified in  
11          paragraph (1)(A) or (2)(A), the Director shall so  
12          state and shall briefly explain the basis of the esti-  
13          mate.

14          “(4) AMENDED BILLS AND JOINT RESOLU-  
15          TIONS; CONFERENCE REPORTS.—If the Director has  
16          prepared the statement pursuant to subsection (a)  
17          for a bill or joint resolution, and if that bill or joint  
18          resolution is reported or passed in an amended form  
19          (including if passed by one House as an amendment  
20          in the nature of a substitute for the text of a bill  
21          or joint resolution from the other House) or is re-  
22          ported by a committee of conference in an amended  
23          form, the committee of conference shall ensure, to  
24          the greatest extent practicable, that the Director

1 shall prepare a supplemental statement for the bill  
2 or joint resolution in that amended form.

3 “(b) ASSISTANCE TO COMMITTEES AND STUDIES.—

4 “(1) IN GENERAL.—At the request of any com-  
5 mittee of the House of Representatives or of the  
6 Senate, the Director shall, to the extent practicable,  
7 consult with and assist such committee in analyzing  
8 the budgetary or financial impact of any proposed  
9 legislation that may have—

10 “(A) a significant budgetary impact on  
11 State, local, or tribal governments; or

12 “(B) a significant financial impact on the  
13 private sector.

14 “(2) CONTINUING STUDIES.—The Director  
15 shall conduct continuing studies to enhance compari-  
16 sons of budget outlays, credit authority, and tax ex-  
17 penditures.

18 “(3) FEDERAL MANDATE STUDIES.—

19 “(A) At the request of any committee of  
20 the House of Representatives or the Senate, the  
21 Director shall, to the extent practicable, con-  
22 duct a study of a legislative proposal containing  
23 a Federal mandate.

24 “(B) In conducting a study under subpara-  
25 graph (A), the Director shall—

1           “(i) solicit and consider information  
2           or comments from elected officials (includ-  
3           ing their designated representatives) of  
4           States, local governments, tribal govern-  
5           ments, designated representatives of the  
6           private sector, and such other persons as  
7           may provide helpful information or com-  
8           ments;

9           “(ii) consider establishing advisory  
10          panels of elected officials (including their  
11          designated representatives) of States, local  
12          governments, tribal governments, des-  
13          ignated representatives of the private sec-  
14          tor, and other persons if the Director de-  
15          termines, in the Director’s discretion, that  
16          such advisory panels would be helpful in  
17          performing the Director’s responsibilities  
18          under this section; and

19          “(iii) include estimates, if and to the  
20          extent that the Director determines that  
21          accurate estimates are reasonably feasible,  
22          of—

23                 “(I) the future direct cost of the  
24                 Federal mandates concerned to the  
25                 extent that they significantly differ

1 from or extend beyond the 5-year pe-  
2 riod after the mandate is first effec-  
3 tive; and

4 “(II) any disproportionate budg-  
5 etary effects of the Federal mandates  
6 concerned upon particular industries  
7 or sectors of the economy, States, re-  
8 gions, and urban, or rural or other  
9 types of communities, as appropriate.

10 “(C) In conducting a study on private sec-  
11 tor mandates under subparagraph (A), the Di-  
12 rector shall provide estimates, if and to the ex-  
13 tent that the Director determines that such es-  
14 timates are reasonably feasible, of—

15 “(i) future costs of Federal private  
16 sector mandates to the extent that such  
17 mandates differ significantly from or ex-  
18 tend beyond the 5-year period referred to  
19 in subparagraph (B)(iii)(I);

20 “(ii) any disproportionate financial ef-  
21 fects of Federal private sector mandates  
22 and of any Federal financial assistance in  
23 the bill or joint resolution upon any par-  
24 ticular industries or sectors of the econ-



1                   omy, States, regions, and urban or rural or  
2                   other types of communities; and

3                   “(iii) the effect of Federal private sec-  
4                   tor mandates in the bill or joint resolution  
5                   on the national economy, including the ef-  
6                   fect on productivity, economic growth, full  
7                   employment, creation of productive jobs,  
8                   and international competitiveness of  
9                   United States goods and services.

10        **[(c) VIEWS AND ESTIMATES OF COMMITTEES.—**  
11        Any committee of the House of Representatives or the  
12        Senate that anticipates that it will consider any proposed  
13        legislation establishing, amending, or reauthorizing any  
14        Federal program likely to have a significant budgetary im-  
15        pact on any State, local, or tribal government, or likely  
16        to have a significant financial impact on the private sector,  
17        including any legislative proposal submitted by the execu-  
18        tive branch likely to have such a budgetary or financial  
19        impact, shall include that information in its views and esti-  
20        mates on that proposal to the Committee on the Budget  
21        of the applicable House pursuant to section 301(d).**]**

22        **“[(d)] (c) VIEWS OF COMMITTEES.—**Any committee  
23        of the House of Representatives or the Senate which an-  
24        ticipates that the committee will consider any proposed  
25        legislation establishing, amending, or reauthorizing any

1 Federal program likely to have a significant budgetary im-  
2 pact on the States, local governments, or tribal govern-  
3 ments, or likely to have a significant financial impact on  
4 the private sector, including any legislative proposal sub-  
5 mitted by the executive branch likely to have such a budg-  
6 etary or financial impact, shall provide its views and esti-  
7 mates on such proposal to the Committee on the Budget  
8 of its House.

9 “**[(e)] (d)** AUTHORIZATION OF APPROPRIATIONS.—  
10 There is authorized to be appropriated to the Congres-  
11 sional Budget Office to carry out this part \$4,500,000 for  
12 each of fiscal years 1996 through 2002.

13 **“SEC. 425. POINT OF ORDER.**

14 “(a) IN GENERAL.—It shall not be in order in the  
15 House of Representatives or the Senate to consider—

16 “(1) any bill or joint resolution that is reported  
17 by a committee unless the committee has published  
18 the statement of the Director pursuant to section  
19 424(a) prior to such consideration, except that this  
20 paragraph shall not apply to any supplemental state-  
21 ment prepared by the Director under section  
22 424(a)(4); or

23 “(2) any bill, joint resolution, amendment, mo-  
24 tion, or conference report that contains a Federal  
25 intergovernmental mandate having direct costs that

1 exceed the threshold specified in section  
2 424(a)(1)(A), or that would cause the direct costs of  
3 any other Federal intergovernmental mandate to ex-  
4 ceed the threshold specified in section 424(a)(1)(A),  
5 unless—

6 “(A) the bill, joint resolution, amendment,  
7 motion, or conference report provides new budg-  
8 et authority or new entitlement authority in the  
9 House of Representatives or direct spending au-  
10 thority in the Senate for each fiscal year for the  
11 Federal intergovernmental mandates included  
12 in the bill, joint resolution, amendment, motion,  
13 or conference report in an amount that equals  
14 or exceeds the estimated direct costs of such  
15 mandate; or

16 “(B) the bill, joint resolution, amendment,  
17 motion, or conference report provides an in-  
18 crease in receipts or a decrease in new budget  
19 authority or new entitlement authority in the  
20 House of Representatives or direct spending au-  
21 thority in the Senate and an increase in new  
22 budget authority or new entitlement authority  
23 in the House of Representatives or an increase  
24 direct spending authority for each fiscal year  
25 for the Federal intergovernmental mandates in-

1           cluded in the bill, joint resolution, amendment,  
2           motion, or conference report in an amount that  
3           equals or exceeds the estimated direct costs of  
4           such mandate; or

5           “(C) the bill, joint resolution, amendment,  
6           motion, or conference report—

7           “(i) provides that—

8           “(I) such mandate shall be effec-  
9           tive for any fiscal year only if all di-  
10          rect costs of such mandate in the fis-  
11          cal year are provided in appropria-  
12          tions Acts, and

13          “(II) in the case of such a man-  
14          date contained in the bill, joint resolu-  
15          tion, amendment, motion, or con-  
16          ference report, the mandate is re-  
17          pealed effective on the first day of any  
18          fiscal year for which all direct costs of  
19          such mandate are not provided in ap-  
20          propriations Acts; or

21          “(ii) requires a Federal agency to re-  
22          duce programmatic and financial respon-  
23          sibilities of State, local, and tribal govern-  
24          ments for meeting the objectives of the  
25          mandate such that the estimated direct

1 costs of the mandate to such governments  
2 do not exceed the amount of Federal fund-  
3 ing provided to those governments to carry  
4 out the mandate in the form of appropria-  
5 tions or new budget authority or new enti-  
6 tlement authority in the House of Rep-  
7 resentatives or direct spending authority in  
8 the Senate, and establishes criteria and  
9 procedures for that reduction.

10 “(b) LIMITATION ON APPLICATION TO APPROPRIA-  
11 TIONS BILLS.—Subsection (a) shall not apply to a bill that  
12 is reported by the Committee on Appropriations or an  
13 amendment thereto.

14 “(c) DETERMINATION OF DIRECT COSTS BASED ON  
15 ESTIMATES BY BUDGET COMMITTEES.—For the purposes  
16 of this section, the amount of direct costs of a Federal  
17 mandate for a fiscal year shall be determined based on  
18 estimates made by the Committee on the Budget, in con-  
19 sultation with the Director, of the House of Representa-  
20 tives or the Senate, as the case may be.

21 “(d) DETERMINATION OF EXISTENCE OF FEDERAL  
22 MANDATE BY GOVERNMENT REFORM AND OVERSIGHT  
23 AND GOVERNMENTAL AFFAIRS COMMITTEES.—For the  
24 purposes of this section, [the Committee on Government  
25 Reform and Oversight of the House of Representatives or

1 the Committee on Governmental Affairs of the Senate, as  
2 applicable, shall have the authority to make final deter-  
3 minations of whether a bill, joint resolution, amendment,  
4 motion, or conference report contains a Federal intergov-  
5 ernmental mandate.] **the question of whether a**  
6 **bill, joint resolution, amendment, motion, or**  
7 **conference report contains a Federal inter-**  
8 **governmental mandate shall be determined**  
9 **after consideration of the recommendation, if**  
10 **available, of the Chairman of the Committee**  
11 **on Government Reform and Oversight of the**  
12 **House of Representatives or the Chairman of**  
13 **the Committee on Governmental Affairs of the**  
14 **Senate, as applicable.**

15       “(e) LIMITATION ON APPLICATION OF SUB-  
16 SECTION (a)(2).—Subsection (a)(2) shall not  
17 apply to any bill, joint resolution, amendment,  
18 or conference report that reauthorizes appro-  
19 priations for carrying out, or that amends,  
20 any statute if enactment of the bill, joint reso-  
21 lution, amendment, or conference report—

22               “(1) would not result in a net increase  
23       in the aggregate amount of direct costs of  
24       Federal intergovernmental mandates;  
25       and

1           “(2)(A) would not result in a net re-  
 2           duction or elimination of authorizations  
 3           of appropriations for Federal financial  
 4           assistance that would be provided to  
 5           States, local governments, or tribal gov-  
 6           ernments for use to comply with any Fed-  
 7           eral intergovernmental mandate; or

8           “(B) in the case of any net reduction  
 9           or elimination of authorizations of appro-  
 10          priations for such Federal financial as-  
 11          sistance that would result from such en-  
 12          actment, would reduce the duties im-  
 13          posed by the Federal intergovernmental  
 14          mandate by a corresponding amount.

15 ~~“SEC. 426. ENFORCEMENT IN THE HOUSE OF REPRESENTA-~~  
 16 ~~TIVES.~~

17          “‘It shall not be in order in the House of Representa-  
 18          tives to consider a rule or order that waives the application  
 19          of section 425(a) [to a bill or joint resolution reported  
 20          by a committee of authorization.”.] : ***Provided, how-***  
 21          ***ever, That pending a point of order under sec-***  
 22          ***tion 425(a) or under this section a Member***  
 23          ***may move to waive the point of order. Such***  
 24          ***a motion shall be debatable for 10 minutes***  
 25          ***equally divided and controlled by the pro-***

1 **ponent and an opponent but, if offered in the**  
2 **House, shall otherwise be decided without in-**  
3 **tervening motion except a motion that the**  
4 **House adjourn. The adoption of a motion to**  
5 **waive such a point of order against consider-**  
6 **ation of a bill or joint resolution shall be con-**  
7 **sidered also to waive a like point of order**  
8 **against an amendment made in order as origi-**  
9 **nal text.”.**

10 **SEC. 302. ENFORCEMENT IN THE HOUSE OF REPRESENTA-**  
11 **TIVES.**

12 (a) MOTIONS TO STRIKE IN THE COMMITTEE OF  
13 THE WHOLE.—Clause 5 of rule XXIII of the Rules of the  
14 House of Representatives is amended by adding at the end  
15 the following:

16 “(c) In the consideration of any measure for amend-  
17 ment in the Committee of the Whole containing any Fed-  
18 eral mandate the direct costs of which exceed the threshold  
19 in section 424(a)(1)(A) of the Unfunded Mandate Reform  
20 Act of 1995, it shall always be in order, unless specifically  
21 waived by terms of a rule governing consideration of that  
22 measure, to move to strike such Federal mandate from  
23 the portion of the bill then open to amendment.”.

24 (b) COMMITTEE ON RULES REPORTS ON WAIVED  
25 POINTS OF ORDER.—The Committee on Rules shall in-



1 clude in the report required by clause 1(d) of Rule XI (re-  
2 lating to its activities during the Congress) of the Rules  
3 of the House of Representatives a separate item identify-  
4 ing all waivers of points of order relating to Federal man-  
5 dates, listed by bill or joint resolution number and the sub-  
6 ject matter of that measure.

7 **SEC. 303. EXERCISE OF RULEMAKING POWERS.**

8 The provisions of this title (except section 305) are  
9 enacted by Congress—

10 (1) as an exercise of the rulemaking powers of  
11 the House of Representatives and the Senate, and as  
12 such they shall be considered as part of the rules of  
13 the House of Representatives and the Senate, re-  
14 spectively, and such rules shall supersede other rules  
15 only to the extent that they are inconsistent there-  
16 with; and

17 (2) with full recognition of the constitutional  
18 right of the House of Representatives and the Sen-  
19 ate to change such rules at anytime, in the same  
20 manner, and to the same extent as in the case of  
21 any other rule of the House of Representatives or  
22 the Senate, respectively.

1 **SEC. 304. CONFORMING AMENDMENT TO TABLE OF CON-**  
 2 **TENTS.**

3 Section 1(b) of the Congressional Budget and Im-  
 4 poundment Control Act of 1974 is amended by inserting  
 5 “PART A—GENERAL PROVISIONS” before the item relat-  
 6 ing to section 401 and by inserting after the item relating  
 7 to section 407 the following:

“PART B—FEDERAL MANDATES

- “Sec. 421. Definitions.
- “Sec. 422. Limitation on application.
- “Sec. 423. Duties of congressional committees.
- “Sec. 424. Duties of the Director.
- “Sec. 425. Point of order.
- “Sec. 426. Enforcement in the House of Representatives.”.

8 **SEC. 305. TECHNICAL AMENDMENT.**

9 The State and Local Government Cost Estimate Act  
 10 of 1981 (Public Law 97–108) is repealed.

11 **SEC. 306. EFFECTIVE DATE.**

12 This title shall take effect on October 1, 1995.



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